

2-128A038

ITEL

May 6, 1992

Hon. Sidney L. Strickland, Jr., Esq.
Secretary
Interstate Commerce Commission
Washington, DC 20423

Itel Rail Corporation

550 California Street
San Francisco, CA 94104
(415) 984-4200

REGISTRATION NO. 15782 FILED 1425

MAY 7 1992 4 05 PM

INTERSTATE COMMERCE COMMISSION

Re: Exhibit 4

Dear Mr. Strickland:

On behalf of Itel Rail Corporation, the above instrument, in three (3) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$16 recordation fee.

Please record the subject Exhibit under the Master Car Lease dated August 8, 1988, between Itel Rail Corporation, successor to Itel Railcar Corporation, and CSX Transportation, Inc., which was filed with the ICC on August 21, 1988, under Recordation No. 15782.

The parties to the aforementioned instrument are listed below:

Itel Rail Corporation (Lessor)
550 California Street
San Francisco, California 94104

CSX Equipment, a unit of (Lessee)
CSX Transportation, Inc.
Treasury Department - S/C B7J
100 North Charles Street
Baltimore, Maryland 21201

This Exhibit 4 supercedes and replaces Exhibit 3, effective as of December 1, 1991 with respect to 293 3,638 cubic foot, 100 ton, Plate B open top hopper cars bearing reporting marks CSXT 370175-370458 (n.s.).

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

Patricia Schumacker

Patricia Schumacker

3 54 PM '92
OPERATING UNIT

REGISTRATION NO. 15782-15 FILED 125

LEASE NO. CSXTPT07A

MAY 7 1992 4:03 PM

EXHIBIT 4

INTERSTATE COMMERCE COMMISSION

This Exhibit 4 (the "Exhibit") to that certain Master Car Lease (the "Lease") made as of August 8, 1988 between ITEL RAIL CORPORATION ("Lessor"), as successor in interest to Itel Railcar Corporation, and CSX TRANSPORTATION, INC. ("Lessee") is made as of April 14, 1992.

RECITALS:

- A. Lessor leases to Lessee and Lessee leases from Lessor 293 open top quad steel hopper cars bearing reporting marks and numbers from within the series CSXT 370175-370468 (the "Car(s)").
- B. Lessor and Lessee desire to (i) extend the term of the Lease for the Cars, (ii) replace the side sheets in each Car and (iii) repair or replace any car body component(s) of any Car which requires repair or replacement due to deterioration from corrosion to the extent that such repaired car body component(s) will remain serviceable through the expiration date of the Extended Term.

Lessor and Lessee agree as follows:

- 1. **Supersedes and Replaces:** Effective as of December 1, 1991 this Exhibit 4 supersedes and replaces Exhibit 3 to the Lease.
- 2. **Capitalized Terms:** All capitalized terms defined in the Lease shall have the meanings defined therein when used in this Exhibit 4 except that the term "Cars" as used herein shall only refer to the equipment described in this Exhibit unless otherwise indicated.
- 3. **Cars Leased:** Lessor hereby leases the following Cars to Lessee subject to the terms and conditions of the Lease and this Exhibit:

AAR Mech Desig	Description	Reporting Marks and Numbers	Cubic Capacity	No. of Cars
HT	100-Ton, Plate B, Open Top Quad Steel Hoppers	CSXT 370175-370374 370376-370468	3,638 c.f.	293

- 4. **Specified Commodities and Usage:**
 - A. Commodities: Coal, Non-Petroleum Based Coke, Iron Ore, Sand, Gravel and Aggregates.
 - B. The parties agree that the Cars are to be used in the services listed in Section A above only and shall not be used for the shipment of any other commodities without Lessor's written consent.
 - C. Lessee may use the Cars in unit train and non-unit train service. Each Car shall be loaded so that the total gross weight on rail for such Car is equal to 263,000 pounds or less.

5. **Extended Term:** December 1, 1991 through November 30, 1994
6. **Rent:**
- A. Semi-Annual Rental Rate:
 - B. Effective as of December 1, 1991, Lessee shall pay to Lessor the _____ for each Car ("Payment") pursuant to Section 4 of the Lease, except that Lessee shall pay to Lessor the first Payment not later than 10 days following the full execution of this Exhibit by both parties.
 - C. Lessee may wire transfer the funds to: Bank of America, Concord, California for credit to the account of IteL Rail Corporation, Funds Transfer Account.
7. **Replacing Side Sheets of Cars:**
- A. Lessor shall, at its expense, replace the side sheets ("Re-Sheeting") in each Car (upon the Re-Sheeting of each Car, such Car shall be referred to for the purposes of this Section 7 as a "Re-Sheeted Car") and newly light weigh and restencil each Re-Sheeted Car. Each Car will take approximately 3 weeks to Re-Sheet and the Cars will be sent into shop at an approximate rate of 2 Cars per business day.
 - B. Lessee shall, at its expense, deliver each Car to Lessor at an interchange point at Dothan, Alabama located on the lines of the Hartford and Slocomb Railroad ("Interchange Point") near the repair facility ("Repair Facility") where the Re-Sheeting will occur, provided that if, due to circumstances outside of Lessor's reasonable control, it becomes necessary to select another repair facility ("Alternate Repair Facility") to complete the Re-Sheeting of Cars, then Lessee shall, at its expense, deliver each Car to an interchange point located on the lines of Lessee ("Alternate Interchange Point") near the mutually agreed to Alternate Repair Facility, and Lessor shall pay all costs associated with the movement of such Car from the Alternate Interchange Point to the Alternate Repair Facility. Lessee shall deliver Cars to Lessor so that the total number of Cars available at any one time for Re-Sheeting shall be not less than 45 Cars and not more than 95 Cars, except as otherwise agreed to by Lessor and Lessee.
 - C. Lessor shall pay all costs associated with the movement of each Car either (i) from the Interchange Point to the Repair Facility for Re-Sheeting and from the Repair Facility to the Interchange Point after the Re-Sheeting or (ii) from the Alternate Interchange Point to the Alternate Repair Facility for Re-Sheeting and from the Alternate Repair Facility to the Interchange Point after the Re-Sheeting.
 - D. Rent for each Car which is out of service for Re-Sheeting shall abate from the earlier of the date Lessor receives written notice that such Car is deemed unfit for service (reference D.Isqluth letter dated 12/20/91 attached hereto as Appendix II), the date such Car is switched off Lessee's lines enroute to a Repair Facility or the date such Car is switched into a storage area designated by Lessor, and shall be reinstated on the date which is the earlier of (i) the date such Re-Sheeted Car, having been inspected by Lessee, is switched onto Lessee's lines, (ii) the date which falls 4 days after the date Lessee and Lessor have concluded an acceptable joint inspection certificate or (iii) 7 days after Lessee has been notified that such Re-Sheeted Car is ready for delivery to Lessee and an inspection date is offered.
 - E. Lessor and Lessee shall jointly arrange both in-bound and out-bound inspections for each group of 10 or more Cars and Re-Sheeted Cars, unless otherwise agreed by the parties.
 - (i) Lessee may, during any in-bound inspection, authorize Lessor to make Additional Repairs (as defined hereinafter) to any Car and Lessee shall pay for any such Additional Repairs. "Additional Repairs" means any repairs to any Car which are requested by Lessee, except for repairs necessitated as a result of corrosion.
 - (ii) Lessor shall deliver each Re-Sheeted Car to Lessee in the condition agreed upon by the parties during the in-bound inspection of such Re-Sheeted Car. Lessor and Lessee shall, during any out-

bound inspection of any Re-Sheeted Car, verify the acceptance of the Re-Sheeting and any Repairs (as defined in Section 8.A. below) and Additional Repairs to any such Re-Sheeted Car.

- (iii) Lessor shall, for each group of Re-Sheeted Cars, provide notice to Lessee that such group of Re-Sheeted Cars is ready for delivery and offer an inspection date ("Inspection Date Notice"). Lessee shall, unless otherwise agreed to by the parties, inspect each group of Re-Sheeted Cars within 7 days of receipt of any Inspection Date Notice. Any Re-Sheeted Cars which Lessee does not inspect within 7 days of such Inspection Date Notice shall be deemed accepted and subject to the Lease.

8. Car Body Components:

- A. Lessor shall, for each Car placed into the Repair Facility or an Alternate Repair Facility for Re-Sheeting, determine if any car body component(s) ("Car Body Components") of such Car requires repair or replacement due to deterioration from Corrosion ("Repair(s)"), and if Lessor determines that any Car Body Component(s) requires such Repair then Lessor shall, at its expense, elect to (i) perform such Repairs of such Car Body Component(s) to the extent that the repaired Car Body Component(s) will remain serviceable through the expiration date of the Extended Term, (ii) remove such Car from service or (iii) replace such Car.
- B. If, during the Extended Term of the Lease, Lessor and Lessee determine that any Car is unserviceable due to the Car Component(s) of such Car requiring Repair(s) then Lessor may (i) perform, at its expense, such Repair(s) of such Car Body Component(s) of such Car (ii) terminate such Car from the Lease or (iii) remove such Car from the Lease and add to the Lease a replacement car.
- C. For any Car removed from service under the provisions of this Section 8, Lessor shall provide written notice to Lessee and Lessee shall return such Car to Lessor under the provisions of Sections 14 and 15 hereinbelow, except for Car Body Component(s) Repair(s), which shall be Lessor's responsibility ("Car Body Repair")

9. Maintenance:

Except as delineated in Sections 7 and 8 above, Lessee shall perform or cause to be performed and pay all costs and expenses associated with the Maintenance (as hereinafter defined) of the Cars. "Maintenance" means all repairs (except as herein otherwise excluded), maintenance, replacement of parts and mandated modifications as are needed to keep any Car in good working order and repair. Any parts, replacements or additions made to any Car are deemed accessions to such Car and title thereto shall vest immediately in Lessor.

- 10. **Removal of Car:** Notwithstanding any other provisions of the Lease, Lessee also has the right, at its sole option and upon 10 days prior written notice to Lessor, to remove any Car listed on this Exhibit from active service so long as Lessee continues to pay rental and any other amounts that may be due hereunder. Lessee shall not be required to repair or use such Car. Upon the expiration or termination of the Lease, such Car shall be returned to Lessor in the Return Condition required hereinbelow.
- 11. **Taxes:** Lessee shall be solely responsible for all federal, state and local property taxes assessed against or levied upon the Cars. Lessee may contest such taxes in appropriate proceedings and Lessor will cooperate with Lessee in such contest. Lessor shall not be liable for penalties or interest payable. Upon Lessor's reasonable request, Lessee shall forward to Lessor upon receipt copies of all correspondence, notifications of proposed assessments and tax bills with respect to such property taxes. Lessee shall be liable for all other taxes or government impositions with respect to the possession and use of the Cars except for Lessor's income, alternative minimum or value added taxes.
- 12. **Record Keeping:** Lessee shall register the Cars in the Official Railway Equipment Register and "UMLER" and shall insert reporting marks provided by Lessor in the ownership field. Lessee shall compile and maintain records pertaining to Maintenance and billing for such Cars in accordance with the Interchange Rules and AAR format. Lessee shall be shown as Lessee in UMLER.

13. **Return Transfer Point:** Dothan, Alabama or a mutually agreed upon point on Lessee's lines

14. **Return Condition:**

Except for Normal Wear and Tear for Side Sheets (as defined in Appendix I) and Car Body Repair (as defined in Section 8.C. above), Lessee agrees to return each Car (a) in the same condition, order and repair as when delivered to Lessee; (b) free from all accumulations or deposits from commodities transported in or on the Car while in the service of Lessee; (c) in interchange condition; and (d) suitable for loading of the commodities allowed in Section 4.A. of this Exhibit. See Appendix I for side sheet criteria for return condition of the Cars.

15. **Storage:** Upon the expiration of the term of the Lease for the Cars described in this Exhibit, Lessee shall assemble the Cars in one location or in several large groups and provide to Lessor written notice that the Cars are assembled, and available for inspection ("Request for Inspection"). Risk of loss or damage to the Cars passes to Lessor 14 days after Request for Inspection or on the date of joint inspection, whichever comes first. Lessor and Lessee shall, within 60 days of Lessor's receipt of such Request for Inspection ("Free Storage Period"), conduct a joint inspection of the Cars and reach final agreement with respect to any restitution necessary to satisfy the Return Condition of the Cars, as provided in Section 14 above. If any Car remains on Lessee's lines beyond the Free Storage Period, then Lessee shall notify Lessor and Lessor shall, upon receipt of such notice, pay to Lessee for each day up to 30 days such Car remains on Lessee's lines, a storage fee of \$5.00 per day per Car and for each day in excess of 30 days such Car remains on Lessee's lines, a storage fee of \$10.00 per day per Car. Until Request for Inspection, Lessee shall continue to be liable for and shall pay all rental at the rate being paid immediately prior to termination or expiration, and Lessee shall in addition make all other payments and keep all obligations and undertakings required of Lessee under any and all provisions of the Lease as though such termination or expiration had not occurred.

16. **Notices:**

Any notices required or permitted to be given hereunder shall be deemed given when sent by telecopy or telex or made in writing, deposited in United States mail, registered or certified, postage prepaid, addressed to:

Lessor:
 ITEL RAIL CORPORATION
 Attention: Contract Administration
 550 California Street
 San Francisco, CA 94104

Lessee:
 CSX Transportation, Inc.
 Treasury Department, B12C
 100 North Charles Street
 Baltimore, MD 21201

or to such other addresses as Lessor and Lessee may from time to time designate.

Each party, pursuant to due corporate authority, has caused this Exhibit to be executed by its authorized officer or other employee, and each of the undersigned declares under penalty of perjury that he or she holds the title indicated below, that the execution of this Exhibit was the free act and deed of the corporation, the foregoing is true and correct and that this Exhibit was executed on the date indicated below.

ITEL RAIL CORPORATION, Lessor

CSX TRANSPORTATION, INC., Lessee

By: Robert H. Field
 Title: Vice President Finance
 Date: 4/13/92

By: A. B. M. [Signature]
 Title: Treasurer
 Date: 4.29.92

APPENDIX I**NORMAL WEAR AND TEAR FOR SIDE SHEETS**

- A. Normal Wear and Tear for Side Sheets:** The product carried in each Car will, over a period of time, abrade and corrode the interior surface of such Car, which results in a reduction of metal thickness. "Normal Wear and Tear for Side Sheets" shall mean 0.007 inch average per year reduction of metal thickness of both sides.
- B. Baseline Measurements:** Lessor shall, using an ultrasonic testing instrument, measure the metal thickness of each Re-Sheeted Car's side sheets to determine the baseline metal thickness for such Re-Sheeted Car ("Measurement"). Measurement shall be made in two positions on each side, at the center line of each end hopper, 12 inches above the side sill ("Baseline Measurement"). Lessor shall make the Baseline Measurements on each Re-Sheeted Car with Lessee during the joint out-bound inspection of such Re-Sheeted Car, or if agreed to by Lessee, Lessor may forward to Lessee the Baseline Measurements for each Re-Sheeted Car.
- C. Allowable Wear and Tear Formula:** Upon the expiration or termination of the Lease for the Re-Sheeted Cars, Lessor shall, in the same two positions as previously recorded, measure the metal thickness of each Re-Sheeted Car's side ("End Measurement"). Lessee is responsible for all wear beyond Normal Wear and Tear for Side Sheets, as defined above ("Lessee's Wear Responsibility") and Lessee's Wear Responsibility shall be determined as follows:

Baseline Measurement - End Measurement = Actual Wear

Actual Wear - Normal Wear and Tear for Side Sheets = Difference

Difference - Normal Wear and Tear for Side Sheets = Percentage

Percentage x 1992 Re-Sheeting Cost of Side Sheets at Dothan, Alabama Repair Facility or a Mutually Agreed to Repair Facility = Lessee's Wear Responsibility